

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DAVID WALKER, et al., Plaintiffs, vs. CITY OF OREM, et al. Defendants.	MEMORANDUM DECISION AND ORDER DENYING MOTION TO CONTINUE TRIAL Case No. 2:02-CV-253 TS
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This matter comes before the Court in response to several filings regarding a continuation of trial currently scheduled for October 9, 2007 in the above-referenced case.

Plaintiff filed a Motion to Continue Trial¹ on September 17, 2007. Defendant Clayton timely filed a Response² and Defendant Peterson timely filed a Memorandum in Opposition.³ Plaintiff stated in his Reply Brief that he “would proceed to trial on October 9th so long as no party is permitted to call a use-of-force expert.”⁴

¹Docket No. 236.

²Docket No. 240.

³Docket No. 241.

⁴Pl. Reply Br. at 5 (Docket No. 242).

The Court issued an Order granting the Motion to Continue.⁵ Of particular concern to the Court was the potential for unfairness if Defendant was to call a use-of-force expert while Plaintiff was not. Defendant Peterson then filed a Stipulation⁶ agreeing to forego the use of their use-of-force expert at trial. This filing negated the potential prejudice which prompted the Court to grant the continuance in the first instance.

In light of Defendant Peterson's willingness to not call his use-of-force expert and Plaintiff's statement in his Reply Brief, the Court will accept the Stipulation filed by Defendant Peterson. Thus, the Court will deny the Motion for Continuance and proceed to trial on October 9, 2007.

DATED September 24, 2007.

BY THE COURT:



TED STEWART
United States District Judge

⁵Docket No. 243.

⁶Docket No. 244.